

ADVISORY OPINION 97-012

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121. 135(4).

December 23, 1997

Mr. John C. Fischer
308 Sixth Avenue
P.O. Box 1
Dayton, Kentucky 41074

Dear Mr. Fischer:

This is in response to your November 25, 1997, request for an advisory opinion regarding whether the Northern Kentucky Bar Association's policy of selling membership address labels at a discount to members would constitute an improper in-kind contribution if sold to a member who is also a political candidate. Your letter explains that the Northern Kentucky Bar Association is a not-for-profit corporation. In addition, the fee policy established by your Association for the sale of address labels requires a charge of \$75 per set for members and \$150 per set for non-members.

KRS 121.025 prohibits corporations from making contributions, either directly or indirectly, toward the nomination or election of any candidate. The provision does not exempt non-profit corporations from this prohibition. KRS 121.015(6) defines "contribution" for the purposes of KRS Chapter 121 and includes in-kind contributions, which are "[g]oods, advertising, or services with a value of more than one-hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate ... at a rate which is less than the rate normally charged for the goods or services." (Emphasis added).

According to your letter, the goods you are selling, membership address labels, have a value of one hundred fifty dollars (\$150.00), but are normally offered to members at a discount. Provided that the Northern Kentucky Bar Association uniformly sells the labels to its members at a rate of seventy-five dollars (\$75.00) a set, then the sale of labels at that rate to a member who is also a candidate would not constitute an in-kind contribution.

Regarding your reliance on this opinion, KRS 121.135(4)(a) and (b) provide that an advisory opinion issued by the Registry may be relied upon by the person or committee involved in the specific transaction, and that any person or committee who relies in good faith upon an advisory opinion rendered to them may not be subject to any sanction under KRS Chapter 121 or any administrative regulation promulgated by the Registry. A copy of the above statute is enclosed for your reference.

If you have any further questions about this or any other matter, please do not hesitate to contact the Registry at (502) 573-2226.

Sincerely,

Rosemary F. Center
General Counsel

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